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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/693,643	10/27/2003	Raksh Vir Jasra	4062-95	8904

23117 7590 08/01/2006

NIXON & VANDERHYE, PC
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ARLINGTON, VA 22203

EXAMINER

SAMPLE, DAVID R

ART UNIT	PAPER NUMBER
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1755

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,643

Applicant(s)

JASRA ET AL.

Examiner

David Sample

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Any rejections and/or objections, made in the previous Office Action, and not repeated below, are hereby withdrawn.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 112

Claims 1-8, 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The recitation “wherein the process does not involve the use of calcination” is not described in the specification. The specification fails to suggest to the skilled artisan that a process free of calcination is part of the invention. To the contrary, the specification describes activating the molecular sieve at a temperature of 350-450°C. Heating to temperature of 350-450°C have been described as calcination in the art of molecular sieves. See, e.g., Murtha et al. (US 4,094,918), col. 4, lines 45-53.

The recitation “wherein the process does not involve the use of clays and organic binders” is not described in the specification.

Lastly, in claims 8 and 16, the recitation that the “adsorbent does not contain any lithium, potassium or calcium ions” is not described in the specification.

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Claims 1-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "hot" in claims 1 and 9 (step (ii)) as it relates to water temperature is a relative term which renders the claim indefinite. The term "hot" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably appraised of the scope of the invention.

Claims 2-8 and 10-16 are rejected for failing to correct the deficiencies of claims 1 and 9.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 49-101327 (JP '327).

JP '327 discloses a method of treating zeolite X in which the zeolite is ion exchanged with a solution containing CeCl_3 , washed, dried and heated (i.e., activated) at a temperature 350°C for four hours. See the translated abstract.

The process does not involve calcination, clay or organic binders.

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The reference fails to disclose the pressure adsorbance properties of the zeolite. However, the process of the reference is identical to the presently claimed process and employs and identical zeolite. For these reasons, the product of the reference is assumed to inherently possess the pressure adsorbance recited in claim 1.

The reference does not disclose that the molecular sieve is “for selective adsorption of oxygen from air.” However, this recitation is a statement of intended use. With regards to statements of intended use, MPEP 2111.02 states:

During examination, statements in the preamble reciting the purpose or intended use of the claimed invention must be evaluated to determine whether the recited purpose or intended use results in a structural difference (or, in the case of process claims, manipulative difference) between the claimed invention and the prior art. If so, the recitation serves to limit the claim. [MPEP 2111.02 (Citing *In re Otto*, 312 F.2d 937, 938, 136 USPQ 458, 459 (CCPA 1963))]

No structural difference can be discerned between the prior art and the instant invention.

Claims 1-7, 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Toufar et al. (US 5,916,836).

Toufar et al. discloses a process of treating molecular sieve in which zeolite X is ion-exchanged with a mixture of La, Ce, Pr, and Nd, filtered and washed. See col. 8, line 64 to col. 9, line 9. Subsequently the molecular sieve is heated slowly to 350°C and held for three hours. See col. 9, lines 30-49. These heating steps correspond to drying and activating.

The process does not involve calcination, clay or organic binders.

The reference fails to disclose the pressure adsorbance properties of the zeolite. However, the process of the reference is identical to the presently claimed process and employs

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and identical zeolite. For these reasons, the product of the reference is assumed to inherently possess the pressure adsorbance recited in claim 1.

The reference does not disclose that the molecular sieve is "for selective adsorption of oxygen from air." However, this recitation is a statement of intended use. With regards to statements of intended use, MPEP 2111.02 states:

During examination, statements in the preamble reciting the purpose or intended use of the claimed invention must be evaluated to determine whether the recited purpose or intended use results in a structural difference (or, in the case of process claims, manipulative difference) between the claimed invention and the prior art. If so, the recitation serves to limit the claim. [MPEP 2111.02 (Citing *In re Otto*, 312 F.2d 937, 938, 136 USPQ 458, 459 (CCPA 1963))]

No structural difference can be discerned between the prior art and the instant invention.

It is noted that the reference requires the presence of additional steps whereas instant claim 9 employs "consisting essentially of" claim language. "Consisting essentially of" claim language limits a claim to the recited ingredients and any ingredients which do not materially affect the novel and/or basic characteristics of the invention. See MPEP 2111.03. There is nothing of record to suggest that the addition of the additional steps of the reference affects the novel and/or basic characteristics of the present invention.

Conclusion

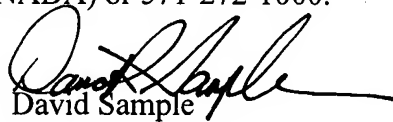
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Sample whose telephone number is (571)272-1376. The examiner can normally be reached on Monday to Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on (572)272-1233. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David Sample
Primary Examiner
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